

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JUNE 30, 2011**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Jeffrey Cohen, Chair; Brian Gildea, Clerk; Angelo Colasante; Kenneth Gordon

ABSENT: Jeffrey Dearing, Vice Chair; Carol Amick; Stephen Henning

Mr. Cohen introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

PRESENTATION: Mr. Gildea read the notice of the meeting.

PETITION #025-11 – CONTINUATION – Angela Valliere, 142 Page Road, seeks to appeal the Building Inspector's determination of the legal occupancy of the structure.

Mr. Cohen stated that he will be invoking the exception to the Mullin Rule tonight; he has read the minutes of the previous meeting and has familiarized himself with the application, and will be a voting member. Mr. Cohen said that, even with him voting, there will only be a four-member Board for this hearing, which means that there is a voting quorum, but any vote to approve the requested zoning relief must be unanimous. He said that in this situation the Board always allows the applicants the option of continuing to another night when a five-member quorum might be present, at which time the zoning relief would be granted even with one dissenting vote out of the five.

Mr. Cohen explained that at the last meeting Mr. Gildea had closed the public hearing, which it turns out should not have been done since the hearing was continued so the Board could get more input. Therefore, as a formality, he would like a motion to re-open the public hearing.

MOTION:

Mr. Gildea moved to re-open the public hearing for Angela Valliere, at 142 Page Road.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Kenneth Leitner, the attorney for the applicant and a Bedford resident of 111 Springs Road, said that the applicant would like to proceed with business this evening, recognizing the implications of a four-member Board. He reminded the Board that they were here on May 12 to consider overturning the Building Inspector's determination of the occupancy of the dwelling. He said the Board asked them to return with some more information, which they have done. He reiterated their opening statement from the last meeting, noting that the house at 142 Page Road has been used and rented as a three-family dwelling since Ms. Valliere and her husband bought it in 1977. He stated that she now seeks the Board's approval to allow the continued use of the premises as a prior non-conforming three family home.

Ms. Valliere said she spent some time going through the old records with Al Bartovics, the Town Archivist, and he was able to produce an "Inhabitants List" from January 1, 1946 that serves as an addendum to the Inhabitants List from January 1, 1945 that the Code Enforcement Director provided at the last meeting. She talked about the history of the house and the documents Mr. Bartovics was able to find.

Mr. Leitner handed out photographs to the Board showing the woodwork and construction inside the house. He noted that these photographs and the architecture inside, including the consistency of the molding, demonstrate that the house was originally built for three units, and nothing was added in the future after the initial construction (not sure about this statement. As I recall, the photos demonstrated that the woodwork for three units was consistent, demonstrating that any alteration to make the dwelling multi-family were all made at the same time, not that it was originally constructed as a single-family dwelling, because it wasn't.

Ms. Valliere explained that she talked with John Speidel in the Assessors Office, who noted that records in any department prior to the 1970s are "dicey" and it is not at all surprising to him that they have been having trouble finding any documentation about the use or occupancy of this house from when it was first built.

Mr. Leitner stated that, as he mentioned at the prior hearing, this is a similar case to the 66 South Road application a couple years ago, in which the Board overturned the Building Inspector's determination and allowed the continued use of the three-family dwelling. He said he believes his client has an even stronger case than those applicants because it is clear that the Town has thought of the house as a three-family dwelling for decades, issuing permits for three water meters and three electrical boxes for the three units. Ms. Valliere said it has been taxed by the Assessors Office as a three-family home since the early 1970s as well.

Mr. Gordon said that he is having trouble with the fact that this Inhabitants List seems to be the only documentation showing three residents in 1945 at the time the Zoning By-Law was adopted, especially since it is not clear whether French Trogdon, the resident listed between the two families, is a boarder of one of the other families or is actually a full-time resident.

There was extensive discussion about the Inhabitants Lists from 1945 and 1946. Mr. Cohen said this documentation is sufficient evidence for him to allow the continued use of this house as a three-family dwelling. Mr. Gildea said the Board really has no way of knowing exactly what happened in the 1940s, but the provided documents do not go against any notion that three families may have lived there at the time of the By-Law adoption.

Mr. Gordon noted that the applicants for 66 South Road used a 1943 census to prove that three families were in residence at the time of the Zoning By-Law change. He said that he had noted at the last meeting that this might be an avenue to look into, and asked the applicants whether they had found a census that had such a listing for this property. Mr. Leitner said they had not found any census for this property, and the Town Archivist was only able to produce this Inhabitants List in terms of specific documentation from the 1940s.

There was discussion about the Building Inspector's determination and whether he considered this a one-family or a two-family. Mr. Gordon said he believed the Building Inspector, Mr. Laskey, originally stated that he could find nothing proving it was anything more than a two-family. Mr. Gildea said that his understanding is that when Mr. Laskey found the documentation before the last meeting showing the Inhabitants List from 1945, he was changing his original determination and stating that the home is at least a two-family dwelling; it would be up to the Board to determine whether it believes the house could be considered a two-family or three-family, and if it believes there is enough evidence to prove it is a three-family dwelling, it may then overturn his decision.

Ms. Valliere pointed out that the Inhabitants List for 1946 goes on to a second page, so it not only lists the three different last names shown on the first page for this address but actually lists four, with the fourth name being listed on the second page of the document. In referencing that page, Mr. Gordon said that makes a big difference to him in his opinion of how many people could have lived there at the time of the Zoning By-Law change adoption.

Mr. Cohen opened the hearing to the public. With no comments or questions from those in attendance, Mr. Cohen closed the public hearing.

DELIBERATIONS:

Mr. Cohen stated that the Board is being asked to overturn the Building Inspector's decision to allow the continued use of the three-family home, or grant a Special Permit for a two-family home. He said that he feels the applicants have provided enough information to make him feel comfortable with overturning the Building Inspector's decision and allow the continued use of a three-family home.

Mr. Gildea said all evidence he has seen supports the claim that this is a three-family dwelling, although much of that evidence is moot since it was documented after 1945;

but the Inhabitants List from January 1, 1946 showing at least three families makes him feel comfortable enough to be able to vote in favor of the applicant and overturn the Building Inspector's determination. Mr. Gordon and Mr. Colasante agreed.

MOTION:

Mr. Gildea moved that the Board find that the property at 142 page Road is a legal three-family structure, prior to change in adoption of bylaw in 1945 and thereby overturning Building Inspector's decision with respect to the legal occupancy of the property.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds, which will officially register this property as a three-family dwelling.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #029-11 – Fastsigns of Waltham, for Bedford Professional Building, 50 Loomis Street, seeks a Special Sign Permit per Article 40.4 Section 3 (A) of the Sign By-Law to split and increase size of wall sign.

Carol Fournier, the representative from Fastsigns of Waltham, greeted the Board and said they would like to move forward tonight with a four member quorum. She explained that they are hoping to add some simple, brushed gold dimensional letters to the front and side of the Bedford Professional Building at 50 Loomis Street. She said the building is an attractive old brick structure with nice landscaping around it, but from a signage standpoint it is very naked, so they would like to change that with this proposal. She remarked that she has gone over the Sign By-Law with Christopher Laskey, the Code Enforcement Director, and they both agree that the By-Law is poorly written and very hazy in some areas in terms of exactly what it allows the Board to do, but she believes the Board is well within its rights under Section 3 to grant these signs. She noted that the owners are especially interested in having the signage on the front of the building and are not necessarily tied to the sign on the side, although they would very much like to have all of the proposed signage, especially since they feel it is within the Board's power to grant it.

Mr. Cohen talked with the applicant about how the sign area was obtained, by drawing a rectangle around the smallest area of the lettering and measuring the height by the length.

He said he likes the look of the signage and it seems to be within the allowable square footage that the Board can allow. The ZBA members talked about whether they could allow 15% or 20% of the first floor wall area for the sign. It was decided that the wording in the By-Law allows for 20% of the wall area to be used as part of the signs, which therefore allows a total of 140 square feet of signage. Mr. Cohen asked for confirmation that the front wall sign on the left side will be 20.5 square feet and the sign on the right side will be 25.09 square feet. Ms. Fournier said that was correct.

Mr. Cohen noted that all the tenant names on the front of the building have two lines except for "Simply Natural Nails." He asked whether the applicants wanted the Board to allow two lines for that tenant space as well, just on the off-chance that a different tenant ever went in there in the future. Lynn Garber, one of the owners of the building, said that was a good idea and would appreciate the Board allowing that.

Mr. Cohen asked whether the applicants have any plans to illuminate the signs. Ms. Fournier said they have no plans to do so at this time.

The Board talked about the sign on the side of the building and looked at renderings of various potential sign proposals for the side.

Mr. Cohen said he is not sure how important signage is on the D'Angelo Road side of the building, because it would be very hard to read and is shaded by trees anyway. Ms. Garber said she thinks it is important to have signage on both streets.

The Board talked about the following two sections of the Sign By-Law:

Section 3.A.1: One (1) sign not to exceed an area equivalent to ten percent (10%) of the first floor front wall area of a business or fifty (50) square feet, which ever is smaller, may be attached to any wall of a building. An increase in area up to twenty percent (20%) of the first floor front wall area may be allowed by Special Permit from the Board of Appeals. Division of the permissible wall sign area into two or more wall signs may be allowed by Special Permit if, in the opinion of the Board of Appeals, such division significantly enhances the appearance of the resulting signage in concert with the architecture of the specific building. No attached sign shall extend above the wall to which it is attached. No sign shall be attached to a roof – real or simulated.

Section 3.A.3: For business which front on two streets, allowable sign area may be divided between the two (2) signs, each sign to be attached to a different wall of the building. The total allowable sign area shall not exceed an area equivalent to fifteen percent (15%) of the first floor front wall area of said business, or sixty (60) square feet, whichever is smaller. Neither sign shall exceed the size which would be permitted Under Section 3.A.1 above.

There was extensive discussion about these sections and whether Section 3.A.3 supersedes 3.A.1. Mr. Gordon said that he believes 3.A.3 does in fact supersede 3.A.1 because it states that “allowable sign area may be divided between two signs” and it does not state “two or more” like section 3.A.1 states; the lack of the words “two or more” indicates to him that the By-Law’s intent is to only allow one sign on each side of a building, if the building fronts on two streets. Mr. Gildea disagreed, stating that he does not believe Section 3.A.3 supersedes Section 3.A.1. He said he can see no logical reason why 3.A.3 would refer back to 3.A.1. The Board talked in more detail about this issue and these sections.

Mr. Cohen opened the hearing to the public.

Mr. Gordon said he believes the Sign By-Law allows *either* multiple signs on one side of the building or one sign on each side of a building facing any street. Mr. Gildea said that Section 3.A.1 of the By-Law gives the Board the right to grant any of the relief request by the applicant, by Special Permit, but of course the can, in its discretion deny relief altogether. Mr. Colasante said he can understand both interpretations. He said the Board also has discretion to not allow signage if it believes they will not be aesthetically pleasing, and he is concerned about that the proposed signage may simply be too much for this building.

Ms. Fournier and Ms. Garber talked more with the Board about the dimensions and aesthetics of the proposed signs.

With no further comments or questions from those in attendance, Mr. Cohen closed the public hearing.

DELIBERATIONS:

Mr. Colasante said he is trying to decipher the intent of the Sign By-Law in terms of signage for commercial buildings that front on two streets. He said it is simply unclear to him whether the intent is to allow one sign on each side or multiple signs on each side.

There was further conversation about the discrepancies between Section 3.A.1 and Section 3.A.3 of the Sign By-Law. Mr. Gildea pointed out that Section 3.A.1 contains specific language about granting a Special Permit, which indicates to him that the By-Law is allowing the Board to grant a Special Permit for things which an applicant cannot have by right; since one sign on each side of the building is allowed by right, he feels a Special Permit could be granted to allow more than one sign on each side of the building. Mr. Gordon said he still has concerns about the language in Section 3.A.3 in regards to the first section. Mr. Cohen said he agreed with Mr. Gildea’s assessment that the Board does have the right to grant the applicant’s proposal, and he believes the signs are attractive enough that he would be willing to grant a Special Permit for the application. Mr. Colasante stated that he could go either way with the interpretation of the By-Law and understands both interpretations, but he does lean towards Mr. Gordon’s assessment.

Mr. Cohen read the synopsis written by Mr. Laskey (see attachment).

Mr. Cohen said that there are some buildings in Bedford, such as in the Great Road Plaza where Café Luigi's is located, that have two sides and multiple tenant signs on each side. Mr. Gordon said that those tenants each have their own entrances, so he can understand the necessity for having multiple signs in that case, but 50 Loomis Street only has one entrance and therefore may not need as much signage; he said he worries about granting signs that make any building look like a NASCAR car.

Ms. Garber said that she simply wants to have signs indicating to people walking or driving by what businesses are in the building. Mr. Colasante said the Board truly does want to work with her and find a way to grant something that will be liked by everyone, but this By-Law is very difficult to work through and it unfortunately isn't as simple as just allowing all the signage by right.

Ms. Garber stated that she is not asking for anything overbearing or distasteful, such as a giant 200 Great Road tenant sign; she just wants people to know what tenants are inside her building.

Mr. Cohen said this seems to be moving beyond questions for clarification and becoming a conversation, so with that in mind he would like to have a motion to reopen the public hearing.

MOTION:

Mr. Gildea moved to reopen the public hearing.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

There was further discussion with the applicants about the signage on the building. Mr. Cohen asked Ms. Garber whether she would be willing to have the Board only consider dividing the signage on the front (Loomis Street-side) and not include the signage facing D'Angelo Road. Ms. Garber said she would not; she believes she can erect the D'Angelo Road-facing signage by-right and the Board has the authority to grant all the signage in the application.

Mr. Cohen said that at this point the Board probably does need a legal opinion from Town Counsel. He suggested that the Board continue this to another night and give Town Counsel a chance to weigh in on the intent behind Sections 3.A.1 and 3.A.3. He

asked the applicants whether they would be willing to continue to the next meeting date. Ms. Garber said it sounds like they will have to be willing, since the Board has come to a stalemate on this issue tonight.

MOTION:

Mr. Gildea moved to continue Fastsigns of Waltham, for Bedford Professional Building, 50 Loomis Street, seeking a Special Sign Permit per Article 40.4 Section 3 (A) of the Sign By-Law to split and increase size of wall sign to July 14, 2011 at 7:30 PM.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #032-11 – John Baer, for 22-24 Loomis Street, seeks a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients and employee(s) to come to premises.

John K. Baer, a Bedford resident on Winthrop Avenue and a business owner in town, introduced himself and said that he is interested in buying the two-family dwelling at 22-24 Loomis Street with the intent of using it for his chiropractic business. He said he currently has a chiropractic business on Great Road and would like to buy this property so he can practice out of his house. He remarked that he is happy to answer any of the Board's questions but also wants to hear any questions or concerns from the abutters, because he cares about their input and the integrity of the neighborhood.

Mr. Baer talked about the hours of operation, noting that he would be open for business approximately 22 hours per week. Mr. Gordon talked in more detail with the applicant about the hours of operation and how many people are seen at one time. Mr. Baer said that he calculated the average amount of patients he sees in one week, and that average comes out to 63 clients.

Mr. Cohen asked about the applicant's plans for parking. Mr. Baer said that he would have some of the grass area in front of the house paved. He said he has never had more than five cars at his business at one time, so he believes that five parking spaces for clients would be sufficient. He said that if this were approved he would also make a request to Richard Warrington of the Department of Public Works (DPW) to consider a curb cut on Loomis Street. Mr. Cohen asked him if he believed placing a paved parking lot in the front yard changed the residential character of the lot, since this is one of the

things the Board must consider. Mr. Baer said there were other parking lots nearby, which would be similar to what he proposes.

Mr. Colasante asked whether Mr. Baer would be the sole employee. Mr. Baer replied that he will be the sole chiropractor, but also has a part-time receptionist/office manager.

Mr. Gordon talked with the applicant about the size of the house and the sections of it that would be used for the chiropractic business.

Mr. Gordon asked Mr. Baer whether he would still purchase this house if he weren't able to have the home occupation use. Mr. Baer said he would not.

Mr. Gildea asked about the garage that is shown on the plot plan and noted that in the short "Description" line on the second page of the application, it mentions restoring the barn. Mr. Baer responded that the barn was taken down years ago, and he originally considering rebuilding the barn but he has taken that part out of the application, so the Board can disregard anything to do with the barn.

Mr. Gordon asked whether the two units in the house are the same size. Mr. Baer replied that the two units are identical.

Mr. Gordon talked in detail with Mr. Baer about the hours the business would be open and the hours that he would actually have clients at the premises.

There was discussion about the potential signage for this business.

Mr. Cohen opened the hearing to the public.

Doug Milroy, of 7 Winthrop Avenue, said he lives across from Mr. Baer, and Mr. Baer is a great neighbor and friend, but he must object to this application. He said that this is a very residential area and he would hate to see that change. He noted that he and his wife have thought a lot about the parking for this proposed use and they figure that it will need nine parking spaces, not only for patients being seen but also people waiting for their appointment, in addition to the employee parking and the two tenants on the other side of the building. He said their other concern is the water runoff that would ensue from putting a paved parking lot in front of this house. He stated that many of the houses in this neighborhood get water in their basements and he worries that this would only add to it.

Cheryl Milroy, of 7 Winthrop Avenue, said she grew up in the house from which the applicant is proposing to run this business, and she does not believe this lot or neighborhood is a suitable fit for such a business. She said that Winthrop Avenue gets as many as 200 cars a day and there is also a school bus stop near there, so she is concerned about additional traffic. She said she agrees with her husband that water runoff from the paving for a parking lot is also a concern.

Anne Gardsbane, of 39 Winthrop Avenue, said she is extremely concerned about the additional traffic that this new business use would cause on the street. She said there are many young children in that neighborhood and she worries a great deal about their safety. She asked the Board how a Special Permit like this is monitored, and what the mechanisms are for ensuring that an applicant adheres to any conditions set forth in a Special Permit. Mr. Cohen said that the only real monitoring comes from neighborhood oversight, and if anyone has concerns or complaints they forward them to the Code Enforcement Department, but no one is actually sent out on a regular basis to ensure that conditions are being followed.

Mr. Baer said he came here tonight to get an idea of how the Town and the neighbors would react to this proposed use, and he can see just from these preliminary comments that the neighbors are not in favor of this application. He said that, with that in mind, he would like to withdraw this petition, because the last thing he wants to do is upset anyone or upset the integrity of the area. He asked the Board whether they would grant a request to withdraw the application without prejudice. Mr. Cohen said they would of course grant his request, and he asked the Clerk for a motion to withdraw.

MOTION:

Mr. Gildea moved to withdraw without prejudice the application of John Baer, for 22-24 Loomis Street, seeking a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients and employee(s) to come to premises.
Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon
Voting against: None
Abstained: None

The motion carried unanimously, 4-0-0.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #030-11 – New Cingular Wireless PCS LLC, for First Parish Church, 75 Great Road, seeks a Special Permit per Section 4.4.5 of the Zoning By-Law to add three antennas and associated equipment to wireless communication facility within church.

Timothy Greene, the representative from AT&T, introduced himself and explained that there is an existing antenna installation inside the First Parish Church steeple at 75 Great Road – installation has been there since 1999. As part of network upgrades for 4G technology, AT&T is adding antennas to sites across the nation. He said AT&T originally had nine antennas on this installation and took down three; they now wish to put those three back up for this 4G upgrade. He said this is all inside the church steeple and will not be at all noticed by the public.

Mr. Cohen asked what wireless carriers are at the site now. Mr. Greene replied that in addition to AT&T, the site has Spring, Clearwire, and Nextel. He noted that AT&T's antennas are at the very top.

Mr. Greene stated that an MIT scientist not associated with AT&T has done a radio frequency (RF) study on the site; he handed out that study to the Board members, noting that the findings show that the entire site gives off less than 1% of the Federal Communications Commission (FCC) maximum allowable output.

Mr. Cohen opened the hearing to the public.

Doris Weber, of 8 Maple Street, said she lives right across the street from this tower and has always been a bit uncomfortable living so close to a tower that puts out radiation. She said that at the last meeting regarding this tower, former Board member Robert Barton said it would be wise for the Town to obtain a report showing the total accumulation of all the towers in Bedford. She said she doesn't know whether that ever happened but she echoes his sentiment that the Town should know exactly what the total output is from all the different carriers. Mr. Cohen said that the report submitted tonight does in fact show the total accumulation, not only from AT&T's tower but from all the carriers. Mr. Greene added that this report shows that the total accumulation is less than 1% of the FCC's allowable output.

Ms. Weber talked about the history of antenna facilities in surrounding towns and about the stringent regulations put on these installations in towns such as Concord. She provided a copy of Concord's Zoning By-Law which details these regulations (see attachment). She said she understands the Board has certain requirements that it must follow but simply wanted to bring these items up and articulate her concerns. Mr. Cohen thanked her for being patient through the long meeting and for expressing her comments.

Mr. Colasante said the Zoning By-Law's requirements for these antennas are very extensive, and it certainly appears that the applicant has provided everything necessary.

There was further discussion about the RF output and the amount of output allowed by the FCC. Mr. Greene pointed out that the average installation gives off approximately 80 watts, so it is much lower than people realize. He talked with the Board about the rules and regulations of these sites and how they are regulated.

Mr. Colasante talked with the applicant about the weight of the antennas and how they are powered.

With no one further comments or questions from those in attendance, Mr. Cohen closed the public hearing.

DELIBERATIONS:

Mr. Cohen said that the request is to add three new antennas to the tower. He noted that

the Zoning By-Law requires a great deal of information to be provided, and the applicant has provided all that is required. He said the requirements of a Special Permit are that the project is in keeping with the intent and purpose of the By-Law and is not detrimental or injurious to the neighborhood; he stated that he believes this project is in keeping with those conditions. The other members agreed.

For clarification purposes, Mr. Cohen asked whether this addition would require any change to the servicing of the equipment. Mr. Greene said it would not require any change or additional traffic to the site, or any more impact on the neighborhood.

Mr. Gildea noted that one would never even know these antennas were in the church steeple, adding that he had never known until he began serving on the Zoning Board.

MOTION:

Mr. Gildea moved to grant New Cingular Wireless PCS LLC, for First Parish Church, 75 Great Road, a Special Permit per Section 4.4.5 of the Zoning By-Law to add three antennas and associated equipment to wireless communication facility within church, as specifically shown on Exhibits A and B.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #031-11 – New Cingular Wireless PCS LLC, for 216 Concord Road, seeks a Special Permit per Section 4.4.5 of the Zoning By-Law to add three antennas and associated equipment to wireless communication facility.

Timothy Greene, the representative from AT&T, said he is also here tonight for a 4G upgrade at the tower at 216 Concord Road, part of the same nationwide upgrade as the prior application. He said the property contains a monopole tower that currently has six providers on it; the third one from the top is AT&T. He said that the same MIT engineer who performed the RF study for 75 Great Road also performed this study, and his findings were very similar, also proving that the total output of all antennas on this tower are under 1% of the FCC's allowed output. He added that the original application packet

included the signature from the landlord of this property but not from the actual land owner, Nathaniel Brown, so he has obtained that signature as well; he handed a copy of that document to the Clerk.

Mr. Cohen asked how the engineer performs these readings. Mr. Greene pointed out that the engineer's report actually breaks down how he performs the readings and the guidelines he has to follow.

There was further conversation about the RF measurements of the antenna site.

Mr. Cohen said he recalls from prior meetings some concern from the neighbors about the use of Turfmeadow Road as an access road to this tower. He said the abutters had complained about noise and dust being kicked up when the equipment trucks drive along the dirt road. Mr. Greene said they are aware of that condition and have always used Concord Road because of that, and are happy to continue doing so in the future.

Mr. Colasante said it appears that AT&T originally took down nine antennas and then put back six, and now want to put back the other three. Mr. Greene said that was correct.

Mr. Cohen opened the hearing to the public. With no one from the public in attendance, Mr. Cohen closed the public hearing.

DELIBERATIONS:

Mr. Cohen said this installation, like the prior hearing, requires a Special Permit, for which the conditions are that the project is in keeping with the intent and purpose of the By-Law and is not detrimental or injurious to the neighborhood. He said this installation, like the one on Great Road, meets those requirements. The other members agreed.

The Board talked about the calculations and measurements shown in the RF study. Mr. Colasante said that he appreciates seeing this new RF analysis being part of the submission, and it makes him more comfortable granting this application.

MOTION:

Mr. Gildea moved to grant New Cingular Wireless PCS LLC, for 216 Concord Road, a Special Permit per Section 4.4.5 of the Zoning By-Law to add three antennas and associated equipment to wireless communication facility, as specifically shown on Exhibits A through D.

Mr. Colasante seconded the motion.

Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

MOTION:

Mr. Gildea moved to adjourn the meeting.

Mr. Colasante seconded the motion.

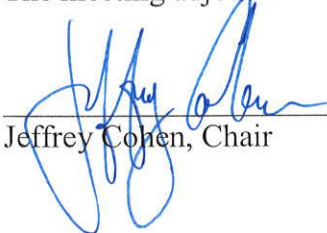
Voting in favor: Cohen, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 4-0-0.

The meeting adjourned at 11:15 PM.



Jeffrey Cohen, Chair 8/25/11
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant

Attachments:

- Synopsis of the 50 Loomis Street application, written by Christopher Laskey
- Excerpt from the Concord, MA Zoning By-Law